

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LEWIS FRANCIS SMITH, #17-00662784,

Petitioner,

v.

DISTRICT ATTORNEY'S OFFICE,

Respondent.

Case No. [20-cv-01474-CRB](#) (PR)

**ORDER DISMISSING PETITION  
FOR A WRIT OF HABEAS  
CORPUS**

(ECF No. 4)

Petitioner, a pretrial detainee facing state criminal charges in San Francisco County Superior Court, has filed a pro se petition for a writ of habeas corpus challenging the criminal proceedings against him primarily on the grounds that his speedy trial rights are being violated by a lengthy delay in prosecution. He also seeks leave to proceed in forma pauperis (IFP) under 28 U.S.C. § 1915 (ECF No. 4) which, good cause shown, is granted.

Petitioner may challenge his pretrial detention on state criminal charges by way of a petition for a writ of habeas corpus under 28 U.S.C. § 2241. But principles of comity and federalism require that this court abstain and not entertain any such pre-sentence habeas challenge unless petitioner shows that: (1) he has exhausted available state judicial remedies, and (2) “special circumstances” warrant federal intervention. Carden v. Montana, 626 F.2d 82, 83-84 (9th Cir. 1980). Only in cases of proven harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid conviction and perhaps in other special circumstances where irreparable injury can be shown is federal injunctive relief against pending state prosecutions appropriate. Id. at 84 (citing Perez v. Ledesma, 401 U.S. 82, 85 (1971)). Petitioner makes no such showing of “special circumstances” warranting federal intervention. See id. at 84; see also Brown v. Ahern, 676 F.3d 899, 903 (9th Cir. 2012) (federal court must abstain from entertaining pre-sentence habeas petition raising speedy trial claim absent special circumstances).


The instant pre-sentence habeas petition accordingly is DISMISSED without prejudice to refiling after state criminal proceedings, including appeal, are completed.

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The clerk is instructed to close the file and terminate all pending motions as moot.

**IT IS SO ORDERED.**

Dated: April 2, 2020

  
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CHARLES R. BREYER  
United States District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LEWIS FRANCIS SMITH,  
Plaintiff,

v.

DISTRICT ATTORNEY'S OFFICE OF  
SAN FRANCISCO,  
Defendant.

Case No. 3:20-cv-01474-CRB

**CERTIFICATE OF SERVICE**


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 2, 2020, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lewis Francis Smith ID: #17662784  
San Francisco County Jail #5  
1 Moreland Drive  
San Bruno, CA 94066

Dated: April 2, 2020

Susan Y. Soong  
Clerk, United States District Court

By:   
Lashanda Scott, Deputy Clerk to the  
Honorable CHARLES R. BREYER